

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DURAN EVANS, SR.,

Plaintiff,

No. CIV S-05-0806 WBS GGH PS

vs.

CITY OF FAIRFIELD, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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This action was referred to the undersigned pursuant to Local Rule 72-302(c)(21). Pursuant to Federal Rule of Civil Procedure 4(m), if a defendant is not served within 120 days of filing the complaint, the court may dismiss the complaint without prejudice as to that defendant. In the order setting status conference, filed April 25, 2005, plaintiff was directed to timely complete service of process on all parties. This action was filed April 25, 2005, and plaintiff has not yet served the defendants with summons. By order filed October 6, 2005, plaintiff was directed to show cause why this action should not be dismissed for failure to serve the defendants. Plaintiff has shown no good cause why defendants have not been served.

Accordingly, IT IS HEREBY RECOMMENDED that the entire case be dismissed.

These findings and recommendations are submitted to the United States District

1 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within ten
2 (10) days after being served with these findings and recommendations, any party may file written
3 objections with the court and serve a copy on all parties. Such a document should be captioned
4 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
5 shall be served and filed within ten (10) days after service of the objections. The parties are
6 advised that failure to file objections within the specified time may waive the right to appeal the
7 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

8 DATED: 11/8/05

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10 /s/ Gregory G. Hollows

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GREGORY G. HOLLOWS
12 UNITED STATES MAGISTRATE JUDGE

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